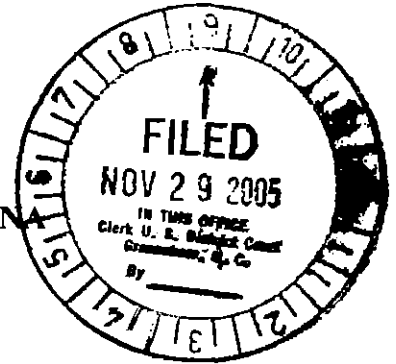


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Eugene Wingo,

Plaintiff,

v.

Sid Harkleroad, et al.,

Defendant(s).

1:05CV01039

**ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff, a prisoner of the State of North Carolina, has submitted a "petition for writ of motion for probe of investigation" in which he complains of civil rights violation at a McDowell County correctional institution. The court will treat this petition as a civil rights action pursuant to 42 U.S.C. § 1983. The form of the complaint is such that serious flaws make it impossible to further process this complaint. The problems are:

1. The complaint cannot be processed because it appears that the alleged violations are occurring in the Western District of North Carolina and no defendants are located in this district. Plaintiff should file his complaint in the Western District. The court notes that the certificate of service shows that he sent this pleading to the Western District Clerk of Court.
2. Filing fee was not received nor was a proper affidavit to proceed in forma pauperis submitted, with sufficient information completed or signed by the plaintiff, to permit review.
3. Plaintiff has failed to provide a sufficient number of copies. Plaintiff must submit the original, one copy for the court, and one copy for each defendant named.

Consequently, this particular complaint should be dismissed, but without prejudice to plaintiff filing a new complaint in the proper district.

In forma pauperis status is granted for the sole purpose of entering this order and recommendation.

IT IS THEREFORE ORDERED that in forma pauperis status is granted for the sole purpose of entering this order.

IT IS RECOMMENDED that this action be filed and dismissed sua sponte without prejudice to plaintiff filing a new complaint in the proper district.

/s/ P. Trevor Sharp
United States Magistrate Judge

Date: November 29, 2005